

REMARKS

This paper is presented in response to the Office Action. By this paper, claims 1, 3-5, 6, 10, 11, 14-17, and 19 are amended, claims 2, 7, 12, and 20 are cancelled, and no claims are added. Accordingly, claims 1, 3-6, 8-11, 13-19, and 22-28 remain pending.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments to the claims and the following remarks. For the convenience and reference of the Examiner, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner, and/or the merits of additional or alternative arguments.

II. Allowable Subject Matter

Applicant acknowledges with thanks the indication of the Examiner that claims 22-28 are allowed, and Applicant also wishes to thank the Examiner for the careful review of those claims.

The Examiner has indicated that claims 2-5, 7, 10, 12, 14-17 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Applicant has rewritten independent claim 1 to so as to include all of the limitations of originally filed claim 2. In particular, the scope of amended claim 1 (i.e., the scope of originally filed claim 2) has not been narrowed in any way so as to overcome any prior art, but has merely been rewritten in independent format. As acknowledged by the Examiner, that claim is patentably distinct from the prior art, and is now in a condition for allowance. Moreover, for at least the same reason, claims now depending from amended claim 1 – namely claims 3-5 – are also in a condition for allowance. Applicant notes that amendments were made to claims 3-5 in order to correct antecedent basis issues arising from rewriting claim 2 in independent format and thus there is no narrowing of the scope of these claims.

Likewise, Applicant has rewritten independent claim 6 to so as to include all of the limitations of originally filed claim 7. In particular, the scope of amended claim 6 (i.e., the scope of originally filed claim 7) has not been narrowed in any way so as to overcome any prior art, but has merely been rewritten in independent format. As acknowledged by the Examiner, that claim is patentably distinct from the prior art, and is now in a condition for allowance. Moreover, for at least the same reason, claims now depending from amended claim 6 – namely claims 8-10 – are also in a condition for allowance. Applicant notes that amendments were made to claim 10 in order to correct antecedent basis issues arising from rewriting claim 7 in independent format and thus there is no narrowing of the scope of this claim.

Similarly, Applicant has rewritten independent claim 11 to so as to include all of the limitations of originally filed claim 12. In particular, the scope of amended claim 11 (i.e., the scope of originally filed claim 12) has not been narrowed in any way so as to overcome any prior art, but has merely been rewritten in independent format. As acknowledged by the Examiner, that claim is patentably distinct from the prior art, and is now in a condition for allowance. Moreover, for at least the same reason, claims now depending from amended claim 11 – namely

claims 13-18 – are also in a condition for allowance. Applicant notes that amendments were made to claims 14-17 in order to correct antecedent basis issues arising from rewriting claim 12 in independent format and thus there is no narrowing of the scope of these claims.

Additionally, Applicant has rewritten independent claim 19 to so as to include all of the limitations of originally filed claim 20. In particular, the scope of amended claim 19 (i.e., the scope of originally filed claim 20) has not been narrowed in any way so as to overcome any prior art, but has merely been rewritten in independent format. As acknowledged by the Examiner, that claim is patentably distinct from the prior art, and is now in a condition for allowance. Moreover, for at least the same reason, claims now depending from amended claim 19 – namely claim 21 – is also in a condition for allowance.

Applicant submits the following comments concerning the Examiner's statements of reasons for the indication of allowable subject matter in the Office Action. In general, Applicant agrees with the Examiner that the inventions to which claims 2-5, 7, 10, 12, 14-17, 20 and 22-28 are respectively directed are patentable over the cited references, but respectfully disagrees with the Examiner's statement of reasons for allowance as set forth in the Office Action.

Particularly, Applicant submits that it is improper to characterize a single limitation, or subset of limitations, as constituting the basis for allowance of a claim. Rather, the patentability of a claim is properly determined with reference to the claim as a whole. Accordingly, Applicant does not concede that the reasons for allowable subject matter given by the Examiner are the only reasons that make, or would make, the claim allowable and Applicant does not make any admission or concession concerning the Examiner's statements in the Office Action concerning the allowability of claims 2-5, 7, 10, 12, 14-17, 20 and 22-28 in view of the cited references.

III. General Comments

Applicant notes that all the amendments made in this paper have been made to put the claims in a condition of allowance. Accordingly, Applicant is not required to file a Request for Continuing Examination (RCE) with this response.

Further, Applicant notes that the Examiner has alleged in the current response that the D/A conversion circuit and the bias current control circuit (elements 12c and 13a of the cited art respectively) meet the broad definition of a potentiometer in light of the specification and that

these elements have resistance values or settings that may be adjusted. Applicants disagree with these allegations. However, in the interests of gaining allowance of the current application, Applicant has made the amendments noted above. Applicant reserves the right to pursue the originally filed claims in a continuation application if this is found to be desirable.

CONCLUSION

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-28 is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 22nd day of March, 2007.

Respectfully submitted,

/Shane K. Jensen/Reg. No. 55,301

SHANE K. JENSEN
Registration No. 55,301
Attorneys for Applicant
Customer No. 022913
Telephone: (801) 533-9800